

## Federal Communications Commission

DA 00-775

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	
FM Broadcast Stations.	)	
(Sheffield, Pennsylvania)	)	MM Docket No. 00-60 ✓
	)	RM-9827
	)	
(Erie, Illinois)	)	MM Docket No. 00-61
	)	RM-9840
	)	
(Due West, South Carolina)	)	MM Docket No. 00-62
	)	RM-9846

DISPATCHED

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FCC MAIL SECTION

NOTICE OF PROPOSED RULE MAKING

Adopted: March 29, 2000;

Released: April 7, 2000

Comment Date: May 30, 2000

Reply Comment Date: June 14, 2000

By the Chief, Allocations Branch:

1. Before the Commission for consideration is a multiple docket Notice of Proposed Rule Making setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner has stated that it will apply for its requested channel, if allotted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket Notice of Proposed Rule Making issued in response to a Commission Public Notice released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single Notice of Proposed Rule Making. Each proposal has its own docket and rule making number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the Public Notice, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

**A. MM Docket No. 00-60; RM-9827****Petitioner:** Port Erie Communications

c/o Arthur V. Belendiuk, Esq.  
Smithwick & Belendiuk, P.C  
1990 M Street, N.W., Suite 510  
Washington, D.C. 20036

**Proposal:** Allot Channel 286A at Sheffield, Pennsylvania, as the community's first local aural transmission service.<sup>1</sup>

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Sheffield, Pennsylvania	---	286A

**Coordinates:** 41-42-42 NL and 79-00-56 WL

**Additional Information:** This allotment is at city reference coordinates and requires no site restriction. Since Sheffield is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government is requested.

**FCC Contact:** Sharon P. McDonald (202) 418-2180

**B. MM Docket No. 00-61; M-9840****Petitioner:** Erie Foods International, Inc.

c/o Lee J. Peltzman, Esq.  
Shainis & Peltzman, Chartered  
1901 L Street, N.W., Suite 290  
Washington, D.C. 20036

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<sup>1</sup> In support of its proposal, petitioner states that Sheffield is a Census Designated Place located in Warren County. It has a 1990 U.S. Census population of 1,294 persons. There are churches, a post office, zip code, elementary and middle-senior high schools, public library, fire department, and a local club. Petitioner further states that there are several businesses which identify themselves with the community, such as the Sheffield Laundry and Sheffield Recycling Center.

**Proposal:** Allot Channel 288A to Erie, Illinois, as the community's first local aural transmission service.<sup>2</sup>

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Erie, Illinois	----	288A

**Coordinates:** 41-39-22 NL and 90-04-23 WL

**Additional Information:** This allotment requires a site restriction of 0.6 kilometers (0.4 miles) east to avoid a short-spacing to the licensed site of Station KQLI (FM), Channel 285C3, DeWitt, Iowa.

**FCC Contact:** Sharon P. McDonald (202) 418-2180

**C. MM Docket No. 00-62; RM-9846**

**Petitioner:** Sutton Radiocasting Corporation

c/o Patricia M. Chuh  
Pepper & Corazzini, LLP  
1776 K Street, N.W., Suite 200  
Washington, D.C. 20006-2334

**Proposal:** Allot Channel 237A to Due West, South Carolina, as the community's first local aural transmission service.<sup>3</sup>

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<sup>2</sup> In support of its proposal, petitioner states that Erie is located in Whiteside County and has a 1990 Census population of 1,585 persons. Erie has its own post office and zip code (61250). It has its own telephone exchange (659). Erie provides police and fire protection and has its own city ambulance and waste water treatment center. It has a public library, school system (elementary, middle and high schools), as well as a school administrative office. Petitioner further states that Erie has an airport, churches, numerous businesses, many of whom associate themselves with the community by incorporating the name "Erie" in their title: Erie State Bank, Erie Parts Center, Erie Feed & Grain, Erie Foods International, and Erie Veterinary Clinic. The community is also home to several physicians, restaurants, grocery stores, bars and clubs, beauty salons, and many other commercial establishments. It has its own newspaper – "The Review." Erie also has a Rotary Club chapter and its own Masonic Lodge chapter as well.

<sup>3</sup> In support of its proposal, petitioner states that Due West is located in Abbeville County and has a 1990 U.S. Census population of 1,220 persons. Due West has its own elected city government, a post office, fire and law enforcement protection, and corporate city limits. It is also home to Erskine College.

CommunityPresentProposed

Due West, South Carolina

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237A

**Coordinates:** 34-17-13 NL and 82-24-23 WL

**Additional Information:** This allotment requires a site restriction of 5.5 kilometers (3.4 miles) south to avoid a short-spacing to the licensed site of Station WBTS(FM), Channel 238C1, Athens, Georgia.

**FCC Contact:** Sharon P. McDonald (202) 418-2180

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket Notice of Proposed Rule Making should reference only the specific docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before **May 30, 2000**, and reply comments on or before **June 14, 2000**, and are advised to read the Appendix for the proper procedure. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules. 46 FR 11549 (February 9, 1981).

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner

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constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

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APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall

be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W.; TW-A325, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Center (Room 239) at its headquarters, 1919 M Street, N.W., Washington, D.C.